

REMARKS

The Office Action of April 29, 2005 and the references cited therein have been carefully studied and, in view of the above changes and the following representations, reconsideration and allowance of this application are most respectfully requested.

Applicant first wishes to express his appreciation for the Examiner's indication of allowable subject matter in Claim 6. Applicant believes that he has made a valuable contribution to the art and the Examiner's recognition of the same is appreciated.

The Examiner objects to the Information Disclosure Statement filed on November 3, 2003. The Examiner believes that it fails to comply with 37 CFR 1.98(a)(1). Specifically, the Examiner states that a column has not been provided with a blank space next to each document to be considered for the Examiner's initials. The Examiner states that the Information Disclosure Statement has been placed in the application file but has not been considered. Applicant respectfully disagrees and requests clarification of the Examiner's position.

First, as a technical matter, Applicant is unaware of an Information Disclosure Statement (IDS) being filed on November 3, 2003. Applicant filed an IDS on March 15, 2004. Applicant assumes that this is the IDS to which the Examiner is referring. If the March 15, 2004 IDS is not the IDS to which the Examiner is referring, Applicant respectfully requests that the Examiner consider it and not any other IDS that she has in front of her.

Regarding the merits of the Examiner's objection, Applicant's representative has carefully read the most current version of 37 CFR 1.98 (July 1, 2004) and is unable to locate the requirement referred to by the Examiner. Also, Applicant's representative has thoroughly read the pertinent sections of the MPEP but has been unable to locate the requirement referred to by

the Examiner. Applicant's representative respectfully requests that the Examiner provide us with a copy of the CFR section to which she refers as well as any MPEP sections that outline what the Examiner believes to be a requirement.

Section 609 of the M.P.E.P. addresses the filing of Information Disclosure Statements. According to MPEP §609 I.A.2. regarding IDS requirements in continuing applications, the Examiner will consider information which has been considered by the Office in a parent application when examining a continuation-in-part application filed under 37 CFR 1.53(b). The MPEP also states that a listing of the information need not be resubmitted in the continuing application unless the applicant desires the information to be printed on the patent. The present application is a properly filed continuation-in-part application. The IDS filed in the parent case was considered by the present Examiner and she did not object to that IDS. In fact, pages 2-7 of Applicant's present IDS lists references cited by the Examiner in the parent case. Therefore, regardless of whether or not the information will be printed on the face of the patent, the Examiner should have considered Applicant's IDS filed in the present application.

Furthermore, the MPEP at §609 also states that the use of forms PTO-1449 and PTO/SB/08A and 8B are encouraged but the use of such forms is not required. Section 609 states that the forms enable applicants to provide the Office with a ready way to indicate that the information has been considered. The form used by Applicant does provide a blank space beside each citation that could be used by the Examiner to indicate whether or not the reference has been considered. It appears that Applicant has met the requirements of 37 CFR 1.98 and of the MPEP. Accordingly, it is respectfully requested that the Examiner consider Applicant's IDS.

Finally, the first page of the current IDS appears to have met all of the

requirements stated by the Examiner. Specifically, the first page has the space for the Examiner's initials next to each reference that the Examiner perceives as a requirement. At the very least, the references listed on this page of the IDS should have been considered by the Examiner because it meets the requirements set forth in CFR §1.98 as well as any additional requirements set forth by the Examiner.

Regarding the claims, Applicant has amended Claim 1 to include the limitations recited in Claims 5 and 6. Accordingly, Claims 5 and 6 have been cancelled. Thus, Applicant believes that all of the claims currently pending are now allowable.

In view of the foregoing, Applicant submits that all of the claims presently in the application clearly and patentably distinguish over the references of record and should be allowed. It is believed that this application is in condition for allowance and an early action toward that end is most respectfully solicited.

Respectfully submitted,

STEPHEN M. MUELLER

By:


Norman E. Lehrer
Registration No. 26,561

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